

HOUSE BILL 2799
By Sontany

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 105, relative to blasting and explosives.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 105, Part 1, is amended by adding the following new section thereto:

Section 68-105-122.

(a) Before blasting operations are conducted within one-half (1/2) mile distance of any dwelling house, public building, school, church, or commercial or institutional building, a blaster shall inspect each such dwelling house, public building, school, church, or commercial or institutional building and shall note in writing any cracks, fissures, separations or other such disturbances in such structures. The blaster shall take photographs of any cracks, fissures, separations, or other such disturbances in such structures. Written notations and photographs shall be acknowledged in writing by a person over the age of eighteen (18) who lives or works in a dwelling house, public building, school, church, or commercial or institutional building within the affected area. Copies of such written notations and photographs shall be provided upon request to the owner of any dwelling house, public building, school, church, or commercial or institutional building.

(b) In any action against a blaster there shall be a rebuttable presumption that cracks, fissures, separations, or other such disturbances in a dwelling house, public building, school, church, or commercial or institutional building occurring within six (6) months of blasting that do not appear in written notes or photographs signed by the owner of such property were the result of blasting. The provisions of this subsection

shall apply only to dwelling houses, public buildings, schools, churches, or commercial or institutional buildings within one-half (1/2) mile distance of blasting operations.

SECTION 2. Tennessee Code Annotated, 68-105-103, is amended by adding the following as a new, appropriately designated subsection:

() Notice shall be given of any blasting activity at least seventy-two (72) hours in advance of such blasting. The notice shall include the date, approximate time, and location of the blasting.

SECTION 3. Tennessee Code Annotated, 68-105-105(b), is amended by deleting the first sentence of subsection (b) in its entirety and by substituting instead the following:

Seismograph measurements must be used in every blasting operation, including individual blasting operations in which there is noncompliance with the standard table of distance.

SECTION 4. Tennessee Code Annotated, 68-105-107, is amended by adding the following new subsections (c) and (d), and by redesignating the subsequent subsection accordingly:

(c) All blasting records shall be filed with the department within one (1) business day of each blast. The department shall make available all blasting records to a person requesting such information, within seventy-two (72) hours of receiving the request.

(d) Persons who conduct blasting operations in counties having a population of not less than five hundred sixty-nine thousand eight hundred (569,800) nor more than five hundred sixty-nine thousand nine hundred (569,900) according to the 2000 federal census or any subsequent federal census, shall also file blasting records with the county fire marshal of such counties within one (1) business day of each blast. The county fire marshals shall make available all blasting records to a person requesting such information, within seventy-two (72) hours of receiving the request.

SECTION 5. Tennessee Code Annotated, 68-105-118, is amended by adding the following as a new, appropriately designated subdivision:

() Has failed to respond to complaints filed with the department by persons who have suffered damages as a result of blasting activities.

SECTION 6. Tennessee Code Annotated, Title 68, Chapter 105, Part 1, is amended by adding the following as new, appropriately designated sections:

Section ____.

(a) The department shall develop uniform guidelines for persons to use in documenting damage resulting from blasting. These guidelines shall be non-binding. Failure to utilize the guidelines shall not be raised as a defense or otherwise used in any proceeding in which a person seeks compensation for damages for blasting.

(b) The department shall develop a procedure in which persons who have suffered damages as a result of blasting activities may file a complaint against a registered blaster with the department.

(c) The department shall develop a program in which entities regulated under this act can enter into prompt and fair settlements with persons who have suffered damages as a result of blasting activities.

Section ____.

The commissioner is authorized to seek criminal history background checks pursuant to § 38-6-109 for persons prior to their becoming registered to use explosives. The commissioner is further authorized to require such persons to provide fingerprint samples to the Tennessee bureau of investigation and the federal bureau of investigation for the purpose of conducting a criminal history background check.

Section _____. No person who has been ordered to cease blasting operations pursuant to § 68-105-109(b), who is a party to litigation involving blasting, or whose registration has been revoked or suspended pursuant to § 68-105-118, shall be permitted to continue blasting operations pending the outcome of such proceedings.

SECTION 7. The department shall promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 8. This act shall take effect July 1, 2006, the public welfare requiring it.